

PT 96-29

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS

---

THE DEPARTMENT OF REVENUE	)	
OF THE STATE OF ILLINOIS	)	Docket No. 94-16-6
	)	PIN 20-29-424-010-0000
v.	)	
	)	Administrative Law Judge
LOVE MEMORIAL	)	Mary Gilhooly Japlon
SANCTUARY MBC,	)	
Applicant	)	

---

RECOMMENDATION FOR DISPOSITION

**Appearances:** Reverend Alonzo Reed and Ms. Naomi Ragland on behalf of Love Memorial Sanctuary MBC; Administrative Law Judge Mary Gilhooly Japlon on behalf of the Illinois Department of Revenue.

**SYNOPSIS:**

A hearing was held on April 4, 1996 pursuant to notice in response to the protest filed by Love Memorial Sanctuary MBC (hereinafter "Love Memorial" or the "applicant") of the Department of Revenue's denial of the request for property tax exemption for the entire parcel of property for the year 1994. The property at issue is identified as permanent parcel identification number 20-29-424-010-0000 and is located in Cook County, Illinois. On August 24, 1995 the Department granted applicant's request for exemption, except for the second floor of the property. The second floor was denied an exemption on the basis that the property was not in exempt use. At the hearing, the Reverend Alonzo Reed and Ms. Naomi Ragland appeared and testified on behalf of Love Memorial Sanctuary MBC.

**FINDINGS OF FACT:**

With respect to the evidence of record, the following findings of fact are made:

1. Love Memorial Sanctuary MBC is located at 7831-33 South Racine in Chicago, Illinois. (Dept. Ex. No. 1).

2. Reverend Alonzo Reed is the pastor and the administrator of Love Memorial Sanctuary and Love Memorial Outreach Ministry Foundation; Ms. Naomi Ragland is the executive secretary of the church, as well as the outreach program. (Tr. pp. 7, 25).

3. The first floor of the property is used for church services. (Tr. p. 24);

4. In 1994, the second floor of the property at issue consisted of eight rooms, four of which were not sectioned off. (Tr. p. 8).

5. One of the rooms was used to house homeless people and substance abusers who came to the applicant for help until they could be placed in a shelter or rehabilitation facility. (Tr. pp. 7-8; 10-11).

6. There was no charge to those housed by the church; the church covered the expenses associated with housing and food. (Tr. pp. 30-31).

7. Sometimes Reverend Reed would stay in the room on the second floor if he worked late at the church and did not want to drive to his home in Calumet City. (Tr. pp. 8, 11).

8. The four rooms that were not sectioned off were utilized for storage of items, such as clothes, shoes, appliances and furniture that were donated to Love Memorial. (Tr. p. 9).

9. The applicant would lease apartments for homeless families and use the donated items to help them set up housekeeping. (Tr. p. 9).

10. The applicant is in the process of renovating the second floor for use as classrooms for religious study, and rooms to accommodate support groups for drug abusers, battered women, parent/child problems, etc. (Tr. p. 16).

11. The work is being done by the Reverend Reed and a couple of members of the Board of Directors due to the applicant's lack of funds to hire labor. (Tr. p. 21).

12. Due to the lack of funds, work is progressing slowly at this point. (App. Gr. Ex. No. 3).

#### **CONCLUSIONS OF LAW:**

Article IX, Section 6 of the Illinois Constitution provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Section 19.2 of the Revenue Act exempts from taxation "[a]ll property used exclusively for religious purposes, or used exclusively for school and religious purposes ... and not leased or otherwise used with a view to profit...".

Proving an exemption from property tax on the basis of being a religious organization is very close to proof of exemption from property tax on the basis that the applicant is a charitable organization. A religious organization must prove that the property is in fact used exclusively for religious purposes. On the other hand, a charitable organization must prove ownership of the property at issue, as well as use of the property exclusively for charitable purposes.

The Department of Revenue granted the exemption request for the first floor of the property which is used for religious purposes. However, the Department specifically denied the exemption request for the second floor for the reason that the "property [was] not in exempt use." (Dept. Ex. No. 2). The issue to be determined is whether the applicant's activities in 1990 were sufficient to constitute development and adaptation of the property for exempt use. "[E]vidence that land was acquired for an exempt purpose does not eliminate the need for proof of actual use for that purpose. Intention to use is not the equivalent of use." (Citations omitted). "Exemptions have been allowed,

however, where property is in the actual process of development and adaptation for exempt use." (Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580, 584 (1987)).

As there is no dispute as to the facts, the determination as to whether the property is entitled to an exemption "depends solely upon an application of the appropriate legal standard to the undisputed facts." (Illinois Central Gulf R.R. Co. v. Department of Local Government Affairs, 95 Ill.2d 111 (1983)). The cases concerned with the issue of whether an applicant's development and adaptation of the subject property for exempt use is sufficient to qualify for the exemption reveal fact patterns which differ in varying degree from the case herein.

In Weslin, *supra*, construction of a major medical campus did not begin until 1984, a year after the year for which the exemption was sought. However, there were some physical changes to the property in 1983 in the form of landscaping and the construction of berms. In addition, the actions taken in 1983 were sufficient to indicate that the property was being prepared for the exempt use. Within eight months of the purchase of the property, the design of the campus was approved and the construction company was selected. All design changes were completed within 17 months of purchase of the property, and construction began within 18 months of purchase. The Court determined that the taxpayer quickly moved through the planning and design stages, spending much money in doing so. The Court acknowledged that building a medical campus is a complex undertaking and that construction could not realistically begin upon purchase of the property. Thus, it deemed the taxpayer's actions to constitute development and adaptation for the exempt use.

Likewise, in In re Application of County Collector, 48 Ill.App.3d 572 (1977), an exemption was granted for a highway, even though approximately six years passed from condemnation of the property for public highway use to use of the property for such purpose. However, property that was boarded up and vacant for a number of years before construction on a senior citizens' housing center

commenced was determined by the Court to not qualify for an exemption for religious purposes, even though the owner intended that it be used as such ultimately. (Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1983)). In Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971), the Illinois Supreme Court denied an exemption for a piece of land wherein there was no use for an exempt purpose and no development for such use. The taxpayer did not intend to develop the land for the exempt use for many years. In addition, the land was leased for profit, a fact that is not present in the case at bar.

In the instant matter, I have no doubt that the applicant intends for the second floor of the property to be ultimately developed into classrooms for religious study, as well as rooms to accommodate support groups for drug abusers, battered women and various other assistance oriented groups. The question, however, is whether the actions that took place in 1994 constituted development and adaptation for exempt use. As noted above, proving an exemption from tax on the basis that the applicant is a religious organization is very close to the proof necessary to prove entitlement to an exemption as a charitable organization. Certainly, providing short term living accommodations free of charge to homeless or other needy persons constitutes charitable actions on the part of the applicant. In addition, utilizing the space to store furniture, appliances, shoes and clothing for the needy also constitutes a charitable activity. In the mean time, the applicant did provide evidence in the form of credible testimony, as well as photographs, that it is proceeding with the construction of a second floor capable of accommodating its intended activities. Progress is admittedly slow due to lack of funds, but it is nonetheless ensuing.

RECOMMENDATION:

Based on the foregoing, it is my determination that Love Memorial Sanctuary MBC has sustained its burden of proving its entitlement to a tax exemption for

the second floor for the year 1994 for the parcel of land located in Cook County and identified by PIN 20-29-424-010-0000.

Enter:

\_\_\_\_\_  
Administrative Law Judge